

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

FREDERICK DONNELL MEANS,

*Petitioner,*

v.

NATHANIEL QUARTERMAN,

*Respondent.*

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CIVIL ACTION NO. H-06-1519

**ORDER**

On July 13, 2006, the Court dismissed this habeas petition for petitioner's failure to either pay the \$5.00 filing fee or move to proceed *in forma pauperis*. On August 22, 2006, petitioner filed the pending motion to reconsider, stating that he had paid the \$5.00 filing fee. (Docket Entry No. 17.) As proof, he attached copies of three customer receipts for three United States Postal Service money orders, dated January 4, 2006, May 2, 2006, and August 4, 2006. As this lawsuit was filed on May 3, 2006 and dismissed in July, 2006, only the May 2, 2006 receipt would have any potential relevance to timely filed filing fees in this case.

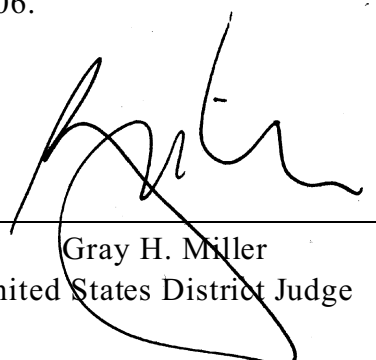
The records in this case, however, show that on May 22, 2006, the Court sent petitioner a deficiency notice ordering him to either pay the filing fee or submit an application to proceed *in forma pauperis* by June 23, 2006. Petitioner did not respond to the notice, and did not inform the Court that he had already sent the filing fees. The Court dismissed the case on July 13, 2006 for failure to pay the filing fees. Petitioner did not

respond to the dismissal or notify the Court that the fees had been sent. On August 2, 2006, he filed a notice of appeal.

No filing fees were received by this Court prior to dismissal of the case, and no information was received from petitioner regarding the filing fees until after he filed his notice of appeal. Even if the Court were to accept the copy of petitioner's customer receipt as proof of timely payment, this case is now on appeal to the Fifth Circuit Court of Appeals and this Court is without jurisdiction to grant petitioner's motion. Accordingly, petitioner's motion to reconsider (Docket Entry No. 17) is **DENIED**.

The Clerk will provide copies of this order to the parties.

Signed at Houston, Texas on August 25, 2006.



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Gray H. Miller  
United States District Judge